

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:05-CV-00365**

<b>CSX TRANSPORTATION, INC.,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>ORDER</b>
	)	
<b>W.R. BONSAI CO.,</b>	)	
	)	
<b>Defendant.</b>	)	
_____	)	

**THIS MATTER** comes before the Court on Plaintiff’s Motion for Summary Judgment on a claim for unpaid demurrage and weighing charges allegedly accrued by Defendant.

The Plaintiff, CSX Transportation, Inc. (“CSX”), an interstate rail carrier, brought suit against the Defendant, W.R. Bonsal Co. (“Bonsal”), a mining operation in Lilesville, North Carolina, to recover \$183,327.80 for unpaid railcar demurrage and incidental weighing charges. Bonsal uses railcars provided by CSX for loading and shipping metallurgical gravel. CSX alleges that between July 2001 and July 2005 Bonsal did not load and return the railcars provided by CSX in a timely manner, thereby incurring demurrage charges. Also, incidental weighing charges are allegedly due because CSX had to weigh the loaded railcars that were for transport.

Summary judgment is granted when “there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(c). The court should independently decide, based on the record, whether a genuine issue of fact exists. Campbell v. Hewitt, Coleman & Assocs., Inc., 21 F.3d 52, 55 (4th Cir. 1994). Summary judgment should not be granted if a “reasonable jury could return a verdict for the nonmoving party.” Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986).

The court, having reviewed the briefs and evidence submitted by both parties, has determined that there appear to be numerous genuine issues of material fact. Thus, summary judgment is inappropriate.

**IT IS THEREFORE ORDERED** that Plaintiff CSX's Motion for Summary Judgment is hereby **DENIED**. This case is hereby set for trial on the September 2006 Civil Trial Calendar.

Signed: July 14, 2006

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen  
United States District Judge

